

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAY WALLER,

Plaintiff,

v.

MICHAEL BURGESS, et al.,

Defendants.

Case No. 1:22-cv-958

HON. JANE M. BECKERING

MEMORANDUM OPINION AND ORDER

Now pending before the Court in this prisoner civil rights action is Plaintiff's "Objection to Request and Recommendation" (ECF No. 33). The Court construes Plaintiff's filing as a motion for reconsideration of this Court's January 16, 2024 Order (ECF No. 29) approving and adopting the Report & Recommendation (R&R) of the Magistrate Judge and granting Defendants Burgess, Parish, and Clouse's motion for summary judgment. No response has been filed to Plaintiff's motion. For the following reasons, Plaintiff's motion for reconsideration is properly denied.

This Court's local rules require a movant seeking reconsideration to "not only demonstrate a palpable defect by which the court and the parties have been misled, but also show that a different disposition of the case must result from a correction thereof." W.D. Mich. LCivR 7.4(a). "[M]otions for reconsideration that merely present the same issues ruled upon by the court shall not be granted." *Id.*

Defendants Burgess, Parish, and Clouse's motion for summary judgment was predicated on Plaintiff's failure to exhaust his administrative remedies for the claims he alleged against them. Plaintiff's argument for reconsideration focuses on his representation that he did not respond to

the summary judgment motion because he requested “a motion for a time extention [*sic*]” (ECF No. 33 at PageID.165). However, nothing in the record supports Plaintiff’s assertion that he requested an extension to respond to Defendants’ motion, and Plaintiff had ample time to so request or to file a response. Plaintiff’s failure to request an extension of time neither demonstrates a palpable defect by which the Court and parties have been misled nor warrants a different disposition of the motion for summary judgment. Accordingly:

IT IS HEREBY ORDERED that Plaintiff’s motion for reconsideration (ECF No. 33) is DENIED.

Dated: February 20, 2024

/s/ Jane M. Beckering
JANE M. BECKERING
United States District Judge